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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,230	07/19/2005	Peter David Jenkins	1011-0057	1496
7590 Edward M Keating Cook Alex McFarron Manzo Cummings & Mehler 200 W Adams Street Suite 2850 Chicago, IL 60606				
01/22/2010				
EXAMINER				
HAUGLAND, SCOTT J				
ART UNIT		PAPER NUMBER		
3654				
MAIL DATE		DELIVERY MODE		
01/22/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/502,230

**Applicant(s)**

JENKINS ET AL.

**Examiner**

SCOTT HAUGLAND

**Art Unit**

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/17/09 has been entered.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the motor recited in claim 1, line 5 and claim 11, line 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12 and 13 do not recite any method steps and there are insufficient method steps recited in parent claim 11 to support the recited intended results recited in claims 12 and 13. Claim 11 does not recite the directions of rotation of the rotatable members and traction members, which rotatable members rotate faster, or their locations relative to the direction of feed of the linear member and does not require the rotatable members to be simultaneously driven at different speeds.

All claims should be revised carefully to correct all other deficiencies similar to the ones noted above.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4, 5/1, 6, 7, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Catallo (U.S. Pat. No. 5,412,853).

Catallo discloses a caterpillar traction apparatus comprising traction members 30, 32, rotatable members 20, 20' around which traction member 30 is entrained, rotatable members 22, 22' around which traction member 32 is entrained, drivable connections (sprockets or pulleys of 60, 61) between each of the rotatable members and motors (of 60, 61). Rotatable members 20, 22 can be driven at a different speed than rotatable members 20', 22'. The method of claims 11 and 12 is inherent in the disclosed operation of the apparatus of Catallo.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 5/2, 5/3, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catallo (U.S. Pat. No. 5,412,853).

Catallo is described above.

Catallo does not explicitly disclose that the difference between the first and second speeds is between 1% and 10% or is 4% or that the extensible traction members are capable of sustained extensions of 10% or greater.

Catallo teaches that it is desired that the apparatus be capable of obtaining large amounts (20%) of total shrinkage of the fabric being treated (col. 4, lines 19-30) and that fully resilient belts are used to maximize the ability of the belts to stretch (col. 1, lines 39-45; col. 2, lines 26-38) .

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rotatable members capable of being driven at speeds that differ by between 1% and 10% or by 4% and to make the traction members capable of sustained extensions of 10% or greater to ensure that the apparatus is capable of obtaining the desired amount of shrinkage for any fabric or other material being treated.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catallo as applied to claim 8, and further in view of McGinnis (CA 1161385).

Catallo does not disclose that the traction members comprise rubber or compressible polymer.

McGinnis teaches forming a traction member of rubber to provide elasticity and teaches making a traction member capable of being elongated.

It would have been obvious to form the belts in Catallo of rubber as taught by McGinnis to provide the desired resiliency.

With regard to claim 10, note that rubber is a compressible polymer.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Catallo (U.S. Pat. No. 5,412,853) in view of Strandberg, Jr. et al (U.S. Pat. No. 3,721,809).

Catallo does not disclose that the difference between the first and second speeds extends linearly the linear member.

Strandberg, Jr. et al teaches feeding different portions of a web at different speeds to stretch the web.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to operate the apparatus of Catallo such that the speed difference extends the linear member as taught by Strandberg, Jr. et al to stretch the linear member to the desired thread count.

### ***Response to Arguments***

Applicants' arguments filed 11/17/09 have been fully considered but they are not persuasive.

Applicants argue that all four rotatable members in Basford are not each driven by a drivable connection with a motor and that it is impossible for the idler rollers of Basford to maintain continuously different speeds because of the keying of the belt to the rollers. However, Catallo teaches a different drivable connection between plural belt

rollers and a drive motor. Both Basford and Catallo are capable of continuously maintaining different roller speeds because slippage between the belt and rollers is not necessary to obtain the speed difference. Stretching of the belt is sufficient. Additionally, note that the claims do not require the speed difference to be maintained for any particular amount of time and do not require the rollers for either belt to be simultaneously driven at different speeds. Neither claim 1 or any of its dependent claims requires any speed difference to actually occur.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. Krouse (U.S. Pat. No. 6,543,767) and Bruenner et al (U.S. Pat. No. 2,368,637) are cited to show apparatus having portions of a single belt driven at different speeds. Mukautz (U.S. Pat. No. 1,105,036) is cited to show a belt drive having plural drive connections to a power source. Travis (U.S. Pat. No. 0,978,077) and Brown (U.S. Pat. No. 0,744,039) are cited to further show feeders having cooperating drive belts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT HAUGLAND whose telephone number is (571)272-6945. The examiner can normally be reached on Mon. - Fri., 10:00 am - 6:00 pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on (571) 272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Q. Nguyen/  
Supervisory Patent Examiner, Art Unit 3654

/SJH/